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Raphael Cohen

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EXAMINER

REESE, DAVID C

ART UNIT

PAPER NUMBER

3677

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/565,485 | <b>Applicant(s)</b><br>COHEN, RAPHAEL |  |
|                              | <b>Examiner</b><br>David C. Reese    | <b>Art Unit</b><br>3677               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

- Claims 1-16 are pending.

### ***Drawings***

[1] The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the item of jewelry in the form of a ring, pendant, earrings, or necklaces from claims 5 and 10-12, as well as the decorative item comprising the item of jewelry from claims 6 and 13-16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

[2] Claim 1 recites the limitations “the way”, “the circumference”, “the pavilion”, “the inside”, and “the perimeter” in the instant claim. There is insufficient antecedent basis for these limitations in the claim.

Claim 2 recites the limitations “the table”, “the facets”, and “the crown” in the instant claim. There is insufficient antecedent basis for these limitations in the claim or dependent one therefrom.

Claims 3 and 7 recite the limitations “the length”, “the sides”, and “the edge” in the instant claim. There is insufficient antecedent basis for these limitations in the claims or dependent ones therefrom.

***Claim Rejections - 35 USC § 103***

[3] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[4] Claims 1 and 3-6, 9, 11-12, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge, FR-585,940, in view of Ramot, US-5,123,265.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 1, Leveridge discloses of an item of jewelry consisting of a central stone (3) and several peripheral stones (1, 2), characterized in that said stones are arranged on a support (see fig. 3) comprising a first ring (8) concentric with and connected to a second ring (6) smaller in diameter and greater in height than the first ring (8), each peripheral stone being held firmly in its position by a slot (see 8 in fig. 2) formed on the inside of the perimeter of the second ring (8).

The difference between the claim and Leveridge is that Leveridge does not expressly state that of the second ring coming to a T-shaped shoulder on its top edge with one side designed to be snapped into a longitudinal groove passing all the way around the circumference of the pavilion of the central stone and its other side snapped into a groove present in each peripheral stone. Ramot discloses a gemstone setting similar to that of Leveridge. In addition, Ramot further teaches of the setting have T-shaped shoulders on its top edge with one side designed to be snapped into a corresponding longitudinal groove passing of one stone and its other side snapped into a groove present in another adjacent stone. It would have been obvious to one of ordinary skill in the art, having the disclosures of Leveridge and Ramot before him at the time the invention was made, to modify the central ring setting, 6, of Leveridge to include a T-shaped shoulder at its top edge, as in Ramot. One would have been motivated to make such a combination because such a configuration allows for an alternative means for setting the central and peripheral stones, said configuration fixing the gemstone or gemstones in a manner which is very secure and stable and in which the setting is also substantially invisible, as taught by Ramot (see background of the invention). Further, it would have been obvious to a person of ordinary skill in the art to have modified the central ring as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp. In turn, because the T-shape as

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claimed has the properties predicted by the prior art, it would have been obvious to modify the central ring of Leveridge in order to gain the commonly understood benefits and applications of such an adaptation and/or modification including that of a more stable and secure connection as well as helping to further hide said setting from view from the user. Thus, Leveridge as modified by Ramot teaches of the central ring 6 of Leveridge as having a T-shaped shoulder at its top as shown by Ramot, said central stone and the adjacent side of the peripheral stones being connected by said T-shaped shoulder. Further, though Leveridge does not disclose of the central stone having a groove passing all the way around the circumference its pavilion, Ramot, as shown in Fig. 1, discloses a groove around in the entirety of the gemstone for securement around all sides of said gemstone with the T-shaped shoulder.

Re: Claim 3, Leveridge teaches characterized in that the length of the edge of one of the sides of each of said peripheral stones is identical to the length of the edge of one of the facets on the crown of the central stone (see fig. 1).

Re: Claim 4, Leveridge teaches that the central stone is an octagonal stone with eight trapezoidal stones arranged around it (in view of that shown in fig. 5).

Re: Claims 5-6 and 11-12 and 14-16, Examiner takes official notice that it is old and well known to use a item of jewelry such as that taught by both Leveridge and Ramot in the form of a ring, pendant, earrings, necklaces (claims 5, 11-12) or other decorative item (claims 6, 14-16).

Re: Claim 9, Leveridge teaches that the central stone is an octagonal stone with eight trapezoidal stones arranged around it (in view of that shown in fig. 5).

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[5] Claims 2, 7-8, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leveridge, FR-585,940, in view of Ramot, US-5,123,265, in further view of Monnier, US-2,207,869.

Although the invention is not identically disclosed or described as set forth 35 U.S.C. 102, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a designer having ordinary skill in the art to which said subject matter pertains, the invention is not patentable.

As for Claim 2, Leveridge in view of Ramot teaches of that of the above claims.

The difference between the claim and Leveridge in view of Ramot is that Leveridge in view of Ramot does not expressly state that table of each peripheral stone and one of the facets of the crown of the octagonal central stone have an identical angle of incidence. Monnier discloses a gemstone setting similar to that of Leveridge in view of Ramot. In addition, Monnier further teaches table of each peripheral stone and one of the facets of the crown of the octagonal central stone have an identical angle of incidence (see fig. 7 of Monnier). It would have been obvious to one of ordinary skill in the art, having the disclosures of Leveridge in view of Ramot and Monnier before him at the time the invention was made, to modify the angle at which the central and peripheral stones are arranged with respect to one another to have each peripheral stone and one of the facets of the crown of the central stone to have an identical angle of incidence, as in Monnier. One would have been motivated to make such a combination because one would want that exact design configuration for mere user preference and aesthetics; giving the effect of an extension of the central stone, as taught by Monnier.

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Re: Claim 7, Leveridge teaches characterized in that the length of the edge of one of the sides of each of said peripheral stones is identical to the length of the edge of one of the facets on the crown of the central stone (see fig. 1).

Re: Claim 8, Leveridge teaches that the central stone is an octagonal stone with eight trapezoidal stones arranged around it (in view of that shown in fig. 5).

Re: Claims 10 and 13, Examiner takes official notice that it is old and well known to use a item of jewelry such as that taught by both Leveridge and Ramot in the form of a ring, pendant, earrings, necklaces (claim 10) or other decorative item (claim 13).

### ***Conclusion***

[6] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited further to show the state of the art with respect to this particular type of jewelry item: please see submitted notice of reference cited.

[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached at (571) 272-6987. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese

/D. C. R./

Examiner, Art Unit 3677

/Victor Batson/

Supervisory Patent Examiner, Art Unit 3677